

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2017

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition No.37430 OF 2003

V.Kuppuswamy

... Petitioner

Vs

1. The State of Tamil Nadu
rep. by the Secretary to Government,
Municipal Administration &
Water Supply Department,
Fort St. George,
Chennai-9.
 2. The Commissioner for Municipal Administration,
Chepauk, Chennai-5.
 3. The Director of Local Fund Accounts,
Kuralagam, Chennai-108.
 4. The Commissioner,
Karur Municipality, Karur,
Karur District.
 5. The Commissioner,
Vellore Municipality,
Vellore, Vellore District.
- ... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to quash the recovery of Rs.24,843/- ordered in Director of Local Fund Account, Chennai-600 108, order No.3361 dated 28.01.2003 and the amount of Rs.24,843/- recovered from the petitioner pensionary benefits may be ordered to be refunded to the petitioner.

For petitioner : Ms.A.K.Banumathy

For respondents

R 1 & 2 : Mr.A.Zakkir Hussain,
Government Advocate

O R D E R

Challenging the recovery of Rs.24,843/- ordered in Director of Local Fund Account, Chennai-600 108 in order No.3361 dated 28.01.2003 from the pensionary benefits of the petitioner, the present Writ Petition came to be filed.

2. The case of the petitioner is that he joined as regular Lower Division Clerk in Wallajapet Municipality on 8.05.1962. After getting step-by-step promotions and after serving various places, lastly the petitioner was promoted as Manager and posted at Ambathur Municipality on 20.03.1998 and retired from service on superannuation on 31.05.2002 A.N. At Karur Municipality.

3. The further case of the petitioner is that while the petitioner was working as Revenue Officer, Vellore, Municipality, a show cause notice was issued to the petitioner in Memo No.10642/96/A13 dated 16.02.2001 as to why he should not be held responsible for the time barred water charges of Vellore Municipality during the period between 01.06.1996 and 16.06.1997 and 15% (Rs.24,843/-) of time barred arrears of water charges be recovered from him. The petitioner has submitted a letter dated 20.03.2001 to the Commissioner, Vellore Municipality that the work relating to the recovery of water charges has been transferred to the Water Works Engineer by the Commissioner for Municipal Administration and therefore, he has no role in collecting the water charges. Thereafter, the petitioner was permitted to retire on 31.05.2001 by the Municipal Commissioner, Karur Municipality by order dated 31.05.2001. However, the order of the Director of Local Fund Account No.45087/MPU3/02 dated 24.12.2002 and PPO No.3361 dated 28.01.2003 received by the petitioner on 07.02.2003, wherein he was informed that a sum of Rs.24,843/- has been recovered from his pensionary benefits for which no charge was framed as contemplated in Rule 8(1) read with Rule 3(4) of the Tamil Nadu Municipal Services (Discipline and Appeal) Rules, 1970. Hence the present Writ Petition.

4. The learned Counsel for the petitioner would submit that without any charge memo, the recovery order was passed. It is a clear violation of the principles of natural justice. Accordingly, the order of recovery is not sustainable and prayed for allowing the present Writ Petition.

5. The learned Government Advocate appearing for the respondents 1 and 2 would submit that the principles of natural justice is followed in this case by issuing the show cause notice and after conducting an enquiry only, the recovery order came to be passed. He would further submit that though the loss of time barred arrears is more than Rs.1,00,000/-, the

respondents thereafter arriving at appropriate calculation, fixed the amount to be recovered only at 15% from the petitioner. Subsequently, the amount was also recovered and therefore, nothing survives for adjudication in this Writ Petition. Hence, he prays for dismissal of the writ petition.

6. I have heard the learned Counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 and 2.

7. A perusal of the notes paper would go to show that at the time of admitting the Writ Petition, this Court did not grant any interim order in favour of the petitioner and the amount was also recovered from the petitioner and the petitioner was also retired from service. Since it appears that after conducting an enquiry, the recovery order was passed and they fixed only 15% liability on the petitioner and the amount was also recovered, I do not find any infirmity in the order passed by the 3rd respondent.

8. In view of all the above, the Writ Petition fails and the same is accordingly dismissed. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

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To

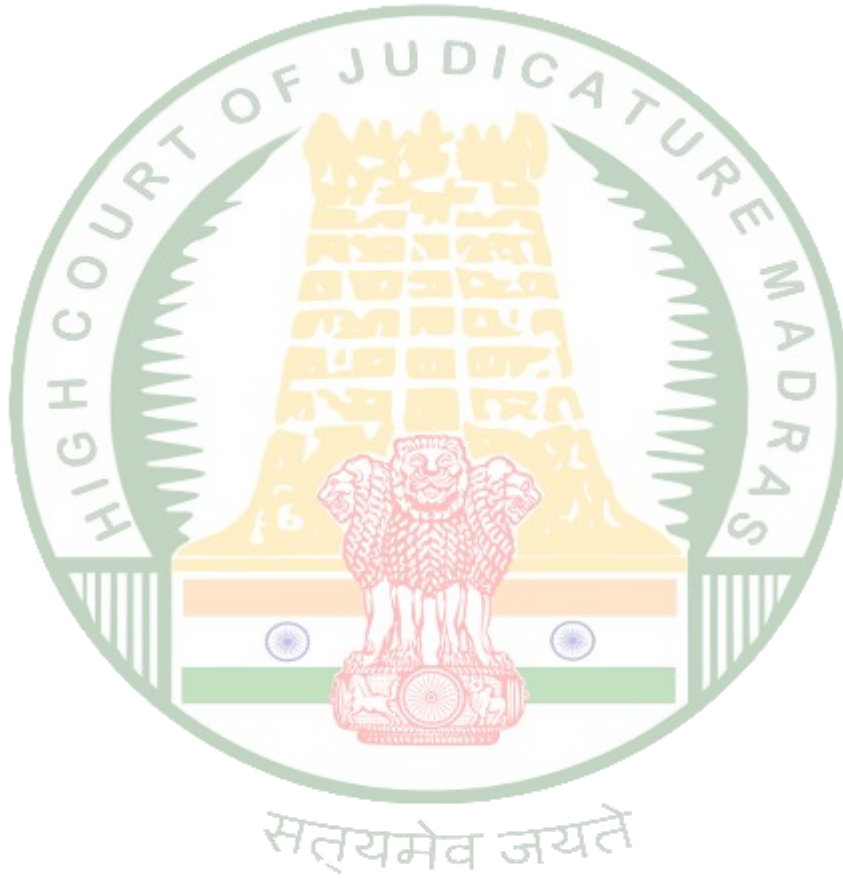
1. The Secretary to Government,
State of Tamil Nadu,
Municipal Administration &
Water Supply Department,
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Karur District.

5. The Commissioner,
Vellore Municipality,
Vellore, Vellore District.

+1cc to Government Pleader in sr.no.63020

W.P.No.37430 of 2003

VGII (CO)
NR 22/09/2017



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